

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ELINA SIHOMBING and DAVID GIRLE,

CR-11-2237 RB

Defendants.

**UNOPPOSED JOINT MOTION TO CONTINUE TRIAL
AND ATTENDANT DEADLINES**

Defendant, Elina Sihombing, and David Girle, by and through their respective counsel of record, Stephen E. Hosford and Herman Ortiz, for their Joint Motion to Continue Trial and Attendant Deadlines state:

1. Defendants are presently scheduled for call of the calendar on January 5, 2012, and trial on January 17, 2012.
2. Defendants Sihombing and Girle were indicted on August 17, 2010, and arraigned on September 2, 2011.
3. Counsel for Sihombing has diligently undertaken to reviewed all Discovery provided to date in this matter. Certain additional Discovery was provided by the United States Attorney on December 21, 2011, consisting of some 20 additional pages and 7 CD's of photos, audio and video interviews. Neither counsel for Sihombing nor counsel for Girle has yet had the opportunity to review the actual video and audio CD's with their respective clients. Both counsel deem such review necessary to evaluate the merits of ongoing plea negotiations and to prepare for trial if necessary.

4. Counsel for the Defendants did meet with AUSA Jessica Jarvis and other members of the United States Attorney's Office on December 21, 2011 to discuss this matter. Issues discussed included a potential resolution without the necessity for trial, and certain Discovery regarding Defendant Sihombing's naturalization background check, that Sihombing deems necessary should this matter go to trial. Request was made of the United States Attorney's Office to obtain this portion of Sihombing's A-file or naturalization file as the case may be. Additional time is necessary to obtain this information.

5. In response to the December 21, 2011 meeting, a plea offer was received by Defendants by e-mail on December 30, 2011. Counsel for Defendants are scheduled to meet with their clients on January 2, 2012 to discuss the plea offer. Counsel will not be in a position to entirely evaluate the existing plea offer until that meeting is held, and counsel have also finished review of all discovery referenced above with their clients. Both Defense counsel do anticipate further negotiations to resolve this matter without trial.

6. Additionally counsel for Sihombing also has three sentencings scheduled on January 17, 2012, in U.S. v. Sanchez, CR-10-2855 JAP, U.S. v. Velasquez-Delgado, CR-11-1592 BB, and U.S. v. Jaquez, CR-11-2134 JAP, involving Judges Parker and Black, which would have to be rescheduled. Velasquez-Delgado appears eligible a time served sentence, and counsel would appreciate the opportunity to go forward with these respective sentencings.

7. Counsel submit all parties have made a diligent effort to date to bring this matter to resolution, that any delay resulting from this continuance is necessary for Defense counsel to review recently provided Discovery with their clients, which is deemed necessary to provide an adequate assistance of counsel, for Defense counsel to obtain additional Discovery requested from the United States, which is deemed necessary to provide an adequate assistance of counsel,

for Defense counsel to adequately evaluate the merits of the respective December 30, 2011 plea offers, and for Defense counsel to adequately prepare for trial should trial be necessary. See United States v. Toombs, 574 F.3d 1262, (10th Cir. 2009).

8. Defendants Sihombing and Girle request this court vacate the existing January 17, 2012 trial date.

9. Pursuant 18 U.S.C. 3161(h)(7)(A), Counsel submit that the ends of justice are served by granting a continuance of the January 17, 2012 trial in order to allow adequate time for Defense counsel to review recently provided Discovery with their clients, to obtain additional Discovery requested from the United States, to adequately evaluate and consider the merits of the respective December 30, 2011 plea offers in light of all the Discovery, and to provide sufficient time for Defense counsel to adequately prepare for trial and be in a position to render effective assistance of counsel at trial, should trial be necessary. Counsel submits the requested continuance is in both Defendants' best interests, is necessary for both Defendants to receive adequate assistance of counsel in these proceedings, and outweighs the interests of the public and of the Defendants to a speedy trial. Defendants waive their respective rights to a speedy trial pursuant 18 U.S.C. 3161(h)(7)(A) to the extent necessary to accommodate this motion.

10. AUSA Jessica Jarvis does not oppose this motion.

WHEREFORE, for the foregoing reasons, Defendants Sihombing and Girle pray this court for an order vacating the existing trial date of January 17, 2011, and for such other relief as is just and appropriate.

RESPECTFULLY SUBMITTED,

LAW OFFICE OF STEPHEN E. HOSFORD, P.C.

By _____/s/_____
Stephen E. Hosford
PO Box 420
Arrey, NM 87930
(575) 644-6068
Attorney for Defendant Sihombing

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 3, 2011 I electronically filed this motion with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following counsel:

Jessica Jarvis
Assistant U.S. Attorney
555 S. Telshor, Ste. 300
Las Cruces, NM 88011

Herman Ortiz
PO Box 937
Mesilla Park, NM 88047